

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 UNITED STATES OF AMERICA, Case No. 5:18-CR-341
5 Plaintiff Akron, Ohio
6 Monday, July 9, 2018
7 2:32 p.m.
8 vs.

9 ALLEN BERNHARDT,
10 Defendant.

11 TRANSCRIPT OF ARRAIGNMENT
12 BEFORE THE HONORABLE JOHN R. ADAMS
13 UNITED STATES DISTRICT JUDGE

14 APPEARANCES:

15 For the Government: Mark S. Bennett
16 Assistant United States Attorney
17 2 South Main Street, Suite 208
18 Akron, Ohio 44308

19 For the Defendant: Kevin M. Cafferkey, Attorney
20 Law Office of Kevin Cafferkey
21 55 Public Square, Suite 2100
22 Cleveland, Ohio 44113

23 Court Reporter: Jocelyn S. Lombardi, RPR
24 Hill Court Reporters
25 101 Central Plaza So., Suite 200
Canton, Ohio 44702

Proceedings recorded by mechanical stenography.
Transcript produced by computer-aided transcription.

P R O C E E D I N G S

THE COURT: For the record, the Court has before it today Case No. 5:18CR341. The case is United States of America versus Allen Bernhardt. We're here today for an arraignment.

Counsel for the government, are you ready to proceed?

MR. BENNETT: Yes, Your Honor. For the record, Assistant United States Attorney Mark Bennett covering for U.S. Attorney Carol Skutnik who is the prosecuting attorney on the case.

THE COURT: Thank you.

On behalf of the defendant.

MR. CAFFERKEY: Thank you, Your Honor. Kevin Cafferkey, C A F F E R K E Y, here on behalf of Mr. Bernhardt.

THE COURT: Thank you.

Mr. Barnhart, this is a proceeding known as an arraignment. It's an opportunity for the Court to make sure that you're aware of the charges against you, allow you to enter a plea, and then set forth or address certain other matters regarding your case. You understand those things?

MR. BERNHARDT: Yes, sir.

THE COURT: Before I begin with my

1 questions, you will be placed under oath. You'll be
2 sworn to tell the truth.

3 MR. BERNHARDT: I'm didn't quite hear that.

4 THE COURT: I said before we begin with my
5 questions, you'll be placed under oath. You'll be sworn
6 to tell the truth, just like you're a witness in the
7 witness stand. All right?

8 MR. BERNHARDT: Yes, sir.

9 THE COURT: Ms. Kestner, would you
10 administer the oath.

11 (Allen Scott Bernhardt was administered the
12 sworn oath.)

13 MR. BERNHARDT: Yes.

14 THE COURT: Thank you. Mr. Bernhardt,
15 would you state your full name and age for the record.

16 MR. BERNHARDT: Allen Scott Bernhardt,
17 age 30.

18 THE COURT: Are you under the influence of
19 any type of drugs, alcohol, or medicine that might
20 affect your ability to understand these proceedings?

21 MR. BERNHARDT: No, sir.

22 THE COURT: Mr. Cafferkey is here to assist
23 you and represent you in this case. Have you had an
24 opportunity to speak with him?

25 MR. BERNHARDT: Yes, sir.

1 THE COURT: Did you have an opportunity to
2 discuss with him the indictment setting forth the
3 charges against you in this case?

4 MR. BERNHARDT: Yes, sir.

5 THE COURT: You understand generally the
6 type of charges or the nature of the charges against
7 you?

8 MR. BERNHARDT: Yes.

9 THE COURT: Would you like me to read the
10 indictment to you, sir?

11 MR. BERNHARDT: No, sir.

12 THE COURT: Are you prepared to enter a
13 plea? And if so, how would you plead?

14 MR. BERNHARDT: Not guilty.

15 THE COURT: Note the defendant's plea of
16 not guilty.

17 With regard to detention, we have a
18 Pretrial Services report.

19 Counsel for the government, what's the
20 government's position regarding detention?

21 MR. BENNETT: Your Honor, the government
22 would accept the recommendation of Pretrial Services and
23 ask for a detention of this defendant and, if a hearing
24 is, is necessary, ask for the three days under 3142,
25 Your Honor.

1 THE COURT: Thank you.

2 Mr. Cafferkey.

3 MR. CAFFERKEY: Thank you, Your Honor.

4 Your Honor, at this point in time, we would, we would
5 ask for a hearing. And certainly we would go along with
6 the longest period of time to prepare for that hearing.
7 I would highlight that Mr. Bernhardt was set for July
8 18th. He actually went on to pretrial I believe today.
9 And it, it looks like he had a little mental health
10 issue with pretrial.

11 So, I may be able to talk with him and then
12 be able to file a waiver of that hearing. But until I
13 have an opportunity to go over everything with him, I
14 would ask for, you know, additional time also.

15 THE COURT: All right. Thank you. Can we
16 do Tuesday. Because the Marshals Service is in
17 training. And I've been told we are not to schedule
18 criminal matters. I think Tuesday we can do that. But
19 after that, we're -- I think the last three days of next
20 week is Marshals Service training.

21 MR. CAFFERKEY: Is it possible, Your Honor,
22 to do it in the afternoon on Tuesday?

23 THE COURT: Yes, we can do that.

24 MR. CAFFERKEY: That would be fine.

25 THE COURT: How about 1:30, 1:30 on

1 Wednesday -- I'm sorry -- Tuesday, July 10th.

2 MR. BENNETT: Your Honor, we may have a
3 conflict. There's a grand jury of another indictment
4 that the agent and -- both him and Carol Skutnik are
5 involved in. And I'm trying to see if we can get the
6 time we had hoped for either Monday or Wednesday.

7 THE COURT: I know it's a bit of a
8 challenge because of the training. But I don't want to
9 mess -- I don't want to impair -- we're not going to do
10 that; I'm not going to impede on the Marshals' training.
11 So....

12 MR. BENNETT: It shouldn't be that long of
13 an indictment. If I could just figure out exactly if
14 it's a morning or an afternoon. And, and you were
15 saying 1:30 on Tuesday?

16 THE COURT: Yes. I mean I can --

17 MR. BENNETT: We'll make it work, Your
18 Honor.

19 THE COURT: Will noon work? Want to do it
20 at noon?

21 MR. BENNETT: Yeah, we'll do it.

22 THE COURT: Is the earlier better or later
23 better?

24 MR. BENNETT: I'm thinking the later is
25 better. I'm thinking it's -- in the morning is her

1 grand jury. And then we can do it in the afternoon.

2 So, I think 1:30 would be --

3 THE COURT: All right.

4 MR. BENNETT: -- fine.

5 MR. CAFFERKEY: Judge, any time after 1:30
6 too is fine with the, with the defense.

7 THE COURT: We'll start at 1:30. If for
8 some reason Ms. Skutnik needs a little later time, we
9 can work with you on that.

10 MR. BENNETT: Thank you, Your Honor.

11 THE COURT: We'll let Mr. Cafferkey know.

12 Mr. Bernhardt, now you're going to need to
13 cooperate with your attorney. The pretrial report
14 indicates you had some mental-health-related issues.
15 So, we'll try to address that in due course.

16 But part of the reason you're here so early
17 is because we are concerned about your safety and your
18 well-being. So, if you're having thoughts, thoughts of
19 harming yourself or doing yourself harm, then we'll try
20 to work with you. But you're going to need to give us
21 some time to do that.

22 And it's important that you remember -- I
23 guess just keep in this mind -- harming yourself or
24 attempting to harm yourself isn't going to make things
25 any better. It's going to make things a lot worse.

1 And, so, you know, until this process plays out, you're
2 going to have to try to keep positive. And we'll see
3 what happens.

4 I have no idea what this case -- what the
5 evidence in this case is going to be. I have no idea
6 what the consequences could be if the behavior is
7 established. I have no idea. But by trying to
8 -- again, we will try to get you some help. But it's
9 not going to benefit you or your family or anyone else
10 if you hurt yourself. Is that clear?

11 MR. BERNHARDT: Yes, sir.

12 THE COURT: So, actually make sure the CCA
13 is aware of this issue. Okay?

14 MS. MIDOCK: Yes. I made a note of that.

15 THE COURT: Anything else on behalf of the
16 government?

17 MR. BENNETT: No, Your Honor. Thank you.

18 THE COURT: Mr. Bernhardt, we will see you
19 next Tuesday. Cooperate with Mr. Cafferkey. He'll help
20 you and advise you.

21 So, that will be the Court's order.

22 MR. BERNHARDT: Thank you.

23 MR. BENNETT: Thank you, Your Honor.

24 THE COURT: You're welcome.

25 (Proceedings adjourned at 2:39 p.m.)

C E R T I F I C A T E

I, Jocelyn S. Lombardi, RPR, certify that the foregoing is a correct transcript from the record of proceedings in the above entitled matter.

/s/ Jocelyn S. Lombardi

Date: August 1, 2018